IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.7385 of 2005

Shree Saptashrungi Textiles — Applicant
Vs.
M/s.Priyanka Collection & ors. — Respondents

Mr.Shailesh Kantharia for applicant.
Mr.D.P.Adsule, APP for State.

CORAM: B.H.MARLAPALLE, J.

August 6, 2007.

P.C.

. Heard Mr.Kantharia, the learned counsel for the applicant - original complainant in Case No.227/SS/2005. The said case was filed under Section 138 of the Negotiable Instruments Act, 1881 and the said complaint was dismissed thereby acquitting the accused - the present respondent no.1. Hence this application for special leave to appeal under Section 378(4) of Cr.P.C.

. As per the complainant three different cheques of Rs.20,000/- each were issued by the respondent no.1 and all of them were dishonoured sometimes in June 2002 and, therefore, he issued a statutory notice on 10/6/2002. As there was no response from the accused within 15 days from the receipt of the

notice, it approached the Court of the learned Metropolitan Magistrate at Dadar, Mumbai. It further claimed that between the period from August 2001 to January 2002 it had supplied material worth Rs.2,18,407/- and from the same a balance of Rs.1,36,000/- was to be paid by the accused - Firm against which these three cheques were issued.

. DW 2 - Nandkumar Mate who was the employee of Pen Co-operative Urban Bank was examined before the trial Court and he had placed before the said Court the statement of account maintained by Priyanka Collection i.e. the accused at Exhibit D-1. On verification of the said statement it was noticed that the petitioner had received in all Rs. 1,87,000/- against the supplies made from August 2001 to January 2002 and, therefore, the balance amount left to be recovered from the accused - Firm was to the tune of Rs.29,000/- to Rs.30,000/-. The trial Court, therefore, held that the three cheques together made an amount of Rs.60,000/- and they could not be held to have been issued for an existing legal liability or any debt and consequently the complaint came to be dismissed.

. The reasoning given by the trial Court on the basis of the evidence placed before it by DW 2 - Nandkumar Mate and which was not disputed, in support of the order of acquittal, does not call for reconsideration at the hands of this Court and hence there is no case made out to grant leave to appeal.

. The application is, therefore, rejected.